

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
AUG 25 2000

CREDIT & DEBIT MANAGEMENT
Group ~~CBP~~ OMD

OFFICE OF
MANAGING DIRECTOR

86-285

Jack Lotsof
President, Stereo 97, Inc.
276 Nassau Avenue
Buffalo, New York 14217

RE: Request for Waiver of Mass Media Regulatory Fee,
Stereo 97, Inc., Radio Station KAVV, Benson, AZ
Fee Control Numbers: 000000BCB-98-092 and
000000CDMC-99-008

Dear Mr. Lotsof:

This is in response to your requests on September 15, 1998 and September 17, 1999, on behalf of Stereo 97, Inc., to waive the station's regulatory fee for fiscal years 1998 and 1999. We granted your request for confidential status to the financial information included with your requests, but we deny your requests for waiver.

Title 47, United States Code, section 159(d) grants the Commission authority to waive the fee "in any specific instance for good cause shown, where such action would promote the public interest." The authority to waive fees is narrowly defined (*See Conference Report, H.R. Rep. No. 453, 99th Cong., 1st Sess. 423*), and it rests upon an established standard with two elements: whether an extraordinary or compelling reason has been demonstrated; and would the waiver of the fee override the public interest to collect the fee. The Commission's implementing rules are at 47 CFR §1.1166.

Commission rules require that the fee accompany the request for waiver except in situations where the request includes a petition to defer payment due to financial hardship, supported by appropriate documentation. You did not provide the fee, the required Form 159, or request that the Commission defer the payment pending our determination on your request for waiver. Failure to comply with the procedural requirement is a basis to dismiss the request. Nonetheless, when we considered the merits of your petitions we found that neither established good cause for the waiver and they do not demonstrate that such waiver would promote the public interest. Each regulatee must properly document a request for waiver, which will be evaluated against the Commission's standard.

Petitioners seeking a waiver, deferral or reduction of a regulatory fee based on financial hardship may submit any relevant information in support of their request. We will review the supporting documents and base our ruling upon information submitted and any additional information available in our records. If

petitioner presents a compelling case of financial hardship, no payment of the regulatory fee will be due. If the supporting materials do not present sufficient evidence of hardship, we will deny the petition. If the fee has not already been submitted, the petitioner will have 30 days to file its regulatory fee in order to avoid the assessment of penalty charges and the invocation of any other available remedy. The filing of a petition for reconsideration will not toll this 30 day period.

R&O, *In re Implementation of Section 9 of the Communications Act*, 9 FCC Rcd 5333, 5346, at ¶ 35 (Jun 8, 1994). Later in response to requests for clarification, we explained:

We will grant waivers of the fees on a sufficient showing of financial hardship. Mere allegations or documentation of financial loss, standing alone, will not support a waiver request. Rather we will grant a waiver only when the impact of the regulatory fee will affect a regulatee's ability to serve the public. It will be incumbent upon each regulatee to fully document its financial position and show it lacks sufficient funds to pay the regulatory fees and to maintain its service to the public.

Memorandum Opinion and Order, *In re Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, at ¶ 13 (Jun 22, 1995).

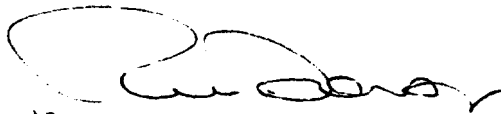
We compared your financial statements provided with each request against the standard, and we reviewed the statements furnished with your waiver requests for fiscal years 1994, 1995, 1996 and 1997. We concluded that you did not meet both elements of the standard. Specifically, we find that you do not lack sufficient funds to pay the regulatory fees and to maintain the service to the public. For example, applying the Commission's standard to the issue of paying \$300 for the 1998 regulatory fee requires you to demonstrate that payment will affect your continued radio service. Instead, your financial statement demonstrates that \$300 is negligible to operations. Mr. Paul Lotsof received a \$3,300 raise, an increase of 12% from the previous year. A substantial increase in pay is incompatible with your claim that paying the required fee will affect your ability to serve the public. The request for fiscal year 1999 is equally unpersuasive.

Mr. Jack Lotsof

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We denied your requests because you did not comply with our procedural requirements and you did not establish financial hardship applying the Commission standard. Your fee for fiscal year 1998 is \$300 and for fiscal year 1999 is \$325. Your fees must be filed together with a Form FCC 159 (copy enclosed) within 30 days from the date of this letter. If you have any questions, please contact the Credit & Debt Management Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a large, stylized initial 'M'.

Mark A. Reger
Chief Financial Officer

STEREO 97, INC.

276 NASSAU AVENUE - BUFFALO, NEW YORK - 716 876-6924

September 17, 1999

Att'n: Regulatory Fee Waiver/Reduction Request
Office of the Managing Director
Federal Communications Commission
1919 M Street, NW, Room 450
Washington, D.C. 20554

Re: Waiver of Mass Media Regulatory Fee for
FM Radio Station KAVV, Benson, Arizona

Gentlemen:

Please accept this letter and the accompanying Financial Statement as this licensee's application for waiver of the regulatory fee for FM Radio Station KAVV for fiscal year 1999, pursuant to 9 FCC Rcd 5333, 5346 (1994).

The regulatory fee for this station has been waived in FY 1994, 1995, 1996, 1997 and 1998. This station's financial condition has not improved since the FY 1998 waiver was granted, as the station has continued to lose money.

Enclosed are the licensee's Financial Statements for its Fiscal Year ended June 30, 1999 bound along with a "Review Letter" from the accountants who prepared these statements certifying that they have been prepared in accordance with the standards of the American Institute of Certified Public Accountants. I note from the Commission's letter of March 27, 1997, that the Commission uses cash flow accounting in evaluating waiver of the regulatory fee. May I call your attention to page 4 of the Financial Statements, which shows that on a cash basis, the licensee's operating loss was \$57,263? Including depreciation and minor differences in payables the loss was \$62,594.

The only officer of Stereo 97, Inc., who received any remuneration was Paul S. Lotsof, whose sole employment was his full-time position as KAVV's general manager. His salary during FY 1998 totaled \$30,450. This was his only remuneration and represented compensation for services actually rendered. The officers of Stereo 97, Inc., and the respective amounts of their compensation from the said business, are:

Jack Lotsof, President	None
Paul S. Lotsof, Vice President	\$30,450
Frances S. Lotsof, Secretary/ Treasurer	None

Office of the Managing Director
September 17, 1999
Page 2

No other employee, consultant or other individual received as much as \$25,000 in any form of compensation in Stereo 97's FY 1998-99.

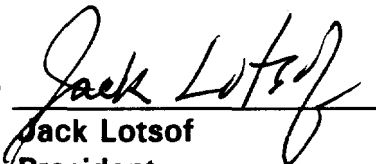
The following is this firm's cash flow projection for the following fiscal year: This enterprise is expected to continue to lose an average of approximately \$5,000 per month from on-going operations on a cash basis. The station has a construction permit to relocate its transmitter and tower in an effort to make the station more nearly viable. This relocation is expected to be complete in December 1999. The relocation will have required an additional capital investment in FY 1999-2000 of approximately \$40,000. As the sole stockholder, I will provide the necessary funds to cover the operating shortages and the aforementioned capital items.

This information is provided to establish financial hardship, in accordance with the requirements set forth at FCC 95-257. If further information is required, please contact me.

Permit me to repeat the request made in applications for waiver of the regulatory fee in prior years, that the information contained in this letter and the enclosure be kept confidential to the extent legally possible. The financial condition of a non-public corporation is naturally a sensitive matter, particularly when the corporation is doing this poorly; the release of this information could jeopardize the business.

Thank you very much for entertaining this request.

Sincerely,
STEREO 97, INC.

By 
Jack Lotsof
President

Encl.

RECEIVED

SEP 21

STEREO 97, INC.

276 NASSAU AVENUE BUFFALO, NEW YORK - 716 876-6924

September 15, 1998

Att'n: Regulatory Fee Waiver/Reduction Request
Office of the Managing Director
Federal Communications Commission
1919 M Street, NW, Room 450
Washington, D.C. 20554

Re: Waiver of Mass Media Regulatory Fee for
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Gentlemen:

Please accept this letter and the accompanying Financial Statement as this licensee's application for waiver of the regulatory fee for FM Radio Station KAVV for fiscal year 1998, pursuant to 9 FCC Rcd 5333, 5346 (1994).

The regulatory fee for this station has been waived in FY 1994, FY 1995, FY 1996 and FY 1997. This station's financial condition has, since the FY 1997 waiver was granted, become even worse.

Enclosed are the licensee's Financial Statements for its Fiscal Year ended June 30, 1998, bound along with a "Review Letter" from the accountants who prepared these statements certifying that they have been prepared in accordance with the standards of the American Institute of Certified Public Accountants. I note from the Commission's letter of March 27, 1997, that the Commission uses cash flow accounting in evaluating waiver of the regulatory fee. May I call your attention to page 4 of the Financial Statements, which shows that on a cash basis, the licensee's operating loss was \$62,482? Including depreciation and minor differences in payables the loss was \$68,204.

The only officer of Stereo 97, Inc., who received any remuneration was Paul S. Lotsof, whose sole employment was his full-time position as KAVV's general manager. His salary during FY 1998 totaled \$30,450. This was his only remuneration and represented compensation for services actually rendered. The officers of Stereo 97, Inc., and the respective amounts of their compensation from the said business, are:

Jack Lotsof, President	None
Paul S. Lotsof, Vice President	\$30,450
Frances S. Lotsof, Secretary/ Treasurer	None

Office of the Managing Director
September 15, 1998
Page 2

No other employee, consultant or other individual received as much as \$25,000 in any form of compensation in Stereo 97's FY 1997-98.

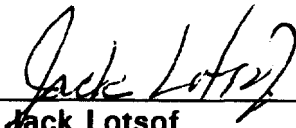
The following is this firm's cash flow projection for the following fiscal year: This enterprise is expected to continue to lose an average of approximately \$5,000 per month from on-going operations on a cash basis, based on anticipated lease rent for the transmitter sites, for which final renegotiations are nearing completion. The station has a construction permit to relocate its transmitter site, in an effort to make the station more nearly viable, but has held off on the actual construction pending finalization of leases for the new transmitter site. The relocation will require a significant cash investment. Further funding in unpredictable amounts for replacement of equipment that fails or requires replacement can be anticipated. As the sole stockholder, I will have to advance funds to cover the operating shortages and these capital items.

This information is provided to establish financial hardship, in accordance with the requirements set forth at FCC 95-257. If further information is required, please contact me.

Permit me to repeat the request made in applications for waiver of the regulatory fee in prior years, that the information contained in this letter and the enclosure be kept confidential to the extent legally possible. The financial condition of a non-public corporation is naturally a sensitive matter, particularly when the corporation is doing this poorly; the release of this information could jeopardize the business.

Thank you very much for entertaining this request.

Sincerely,
STEREO 97, INC.

By 
Jack Lotsof
President

Encl.